



# CONNECTICUT AUTOMOTIVE RETAILERS ASSOCIATION

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- A. Workers' Compensation Seminar

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1. CAR/NADA Survey
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## ROUTE:

GENERAL MANAGER _____	SALES MANAGER _____
BUSINESS MANAGER _____	NEW CAR MANAGER _____
SERVICE MANAGER _____	USED CAR MANAGER _____
F & I MANAGER _____	PARTS MANAGER _____
TITLE CLERK _____	OTHER _____

### WORKER'S COMP SAFETY CORNER

*Did you know . . . Positive recognition by management is a powerful motivator for employees and strengthens your dealership's safety culture. Do you and your managers recognize employees who adhere to safety rules and demonstrate commitment to safe work practices? Give them a pat on the back and tell them how much you appreciate them.*

**1.  
SENATE FINANCIAL  
REGULATION BILL****NADA Warns Dealer-Assisted Financing Could Come To An End If Reform Legislation Passes In Current Form**

*Industry Supports Senator Brownback's Amendment to Exempt Auto Dealers from Senate Financial Regulation Bill*

The Senate Financial Regulation Bill, which passed the Senate Banking Committee on a party-line vote of 13-10 on March 22, 2010, will soon be considered by the full Senate. The legislation would create a Bureau of Consumer Financial Protection (BCFP). This new entity would have new and broad authority to regulate most financial products, including dealer-assisted financing. Auto dealers are already extensively regulated by the Federal Reserve Board, the Federal Trade Commission (FTC) and state consumer protection agencies.

NADA believes the agency would have sweeping powers to fundamentally alter or even potentially regulate out of existence auto financing at dealerships. The new bureau would also have the authority to reduce or eliminate dealer compensation for arranging a loan or lease, and could even limit a salesperson's commission connected to a sale, if the vehicle is financed.

The Senate provision is markedly different from the one that passed the House in December (HR-4173), which included a bipartisan amendment that would exempt dealers from regulation by the new independent Consumer Protection Agency (*except for "buy here, pay here" financing*). The house version would maintain consumer protection regulations administered by the Federal Reserve, FTC and state agencies as they currently apply to automotive retailers. The Senate version, as written, would create a department within the Federal Reserve with broad powers that could adversely impact dealer finance and insurance operations, and would not exempt dealers.

Since well more than 90% of all vehicle sales involve financing, consumer access to affordable credit is essential for automotive buyers. Optional dealer-assisted financing combines convenience and competition for the benefit of consumers at all economic levels. The auto finance model is sound, based on due diligence, and decreases the cost of credit to consumers.

NADA supports the Brownback Amendment that exempts automobile dealers from BCFP jurisdiction. The proposed Bill and amendment are tentatively scheduled to be considered on the Senate floor on May 26.

The CAR Association is joining with NADA and other Automotive Retailer Associations around the country to educate the Senate about why subjecting dealers to regulation by yet another federal agency will have a negative impact on an important industry already fighting a variety of financial obstacles.

**SENATE FINANCIAL  
REGULATION BILL  
CONTINUED . . .**

**What Can You Do?**

CAR encourages dealers to call both Senators Christopher Dodd and Joseph Lieberman at both their Connecticut and Washington offices to let them know what impact this redundant and unnecessary regulation would have on your business and encourage them to support Senator Brownback's amendment when it is introduced.

**Senator Christopher Dodd**

Connecticut: (860) 258-6940 or (800) 334-5341

Washington: (202) 224-2823

**Senator Joseph Lieberman**

Connecticut: (860) 549-8463 or (800)225-5605

Washington: 202.224.4041

Below are some talking points the industry hopes to emphasize in communications to our elected officials:

- Dealers were not part of the problem that caused the economic meltdown. Unlike mortgages, auto finance did **not** experience a sub-prime lending crisis and does not pose a systemic risk.
- If the bill were to pass as is it will greatly reduce the ability of consumers with low credit scores to finance motor vehicles.
- If this bill passes as is dealers will remove themselves from the financing aspect of the transaction which will make it very difficult to stay in business.
- We are not asking to get out of being regulated. Dealers are already regulated by the FTC and the Connecticut Attorney General and Departments of Banking and Consumer Protection.

Since the banks and finance companies that underwrite and service auto loans would be covered by BCFP, additional regulation of dealers would simply be costly and unnecessary.

CAR was recently advised by a large captive finance company that several of their dealer clients are not implementing the upcoming FTC Red Flags Rule (enforcement of which has been delayed an unprecedented four times, and which is set to begin June 1, 2010).

Even after all the educational items presented to dealers on this regulation, the dealers not complying with the law all gave one of two equally mistaken reasons:

**2.  
RED FLAGS RULE  
REMINDER**

**RED FLAGS RULE  
REMINDER  
CONTINUED . . .****1. The Red Flags Rule does not apply to new car dealers.**

The Red Flags Rule applies to “Creditors” and their “Covered Accounts.” “Creditors” are defined to specifically include automobile dealers, and “Covered Accounts” specifically include automobile loans. While FTC enforcement of the Red Flags Rule has been stayed until June 1, 2010, the rule is currently in effect.

**2. Compliance with the Red Flags Rule by a finance company “trickles down” to the dealership – requiring no further action by the dealership to comply.**

The duties under the Red Flags Rule specifically apply to all entities subject to the Red Flags Rule – including dealers. You are specifically required to create and implement a comprehensive Identity Theft Prevention Plan, as are the financial institutions with which you do business. Plans created and implemented by these financial institutions *do not* extend to cover your dealership. Furthermore, federally-backed banks and credit unions are regulated by the FDIC and NCUA, which have not followed the FTC in delaying enforcement. Just as the Red Flags Rule requires that you ensure that auto brokers and other service providers implement policies and procedures to detect, prevent, and mitigate the risk of identity theft, these banks and credit unions will be required to ensure you do the same before doing business with you. In practical terms, banks and credit unions will contractually require your dealership to implement an identity theft prevention program as a condition of buying your contracts.

For more information on your responsibilities under the Red Flags Rule consult NADA’s *A Dealer Guide To The FTC Red Flags Rule And Address Discrepancy Rules: Protecting Against Identity Theft*.

**3.  
READY FOR AN  
I-9 AUDIT?**

Last year, the Department of Homeland Security announced that they are increasing their scrutiny of employers’ practices for verifying an employee’s ability to work legally in the United States. Immigration Customs and Enforcement (ICE) has been inspecting employers and requesting that they turn over their original I-9 forms and other information, including E-Verify documentation.

Employers are required to complete and retain a Form I-9 for each individual they hire for employment in the United States. This form requires employers to review and record the individual’s identity document(s) and determine whether the document(s) reasonably appear to be genuine and related to the individual.

In 2009, ICE implemented a new, comprehensive strategy to reduce the demand for illegal employment and protect employment opportunities for the nation’s lawful workforce. Under this strategy, ICE is focusing its resources on the auditing and investigation of employers suspected of cultivating illegal workplaces by knowingly employing illegal workers.

**4.  
CRACKDOWN ON  
INDEPENDENT  
CONTRACTORS**

A state commission investigating the misclassification of employees as independent contractors has recommended a number of measures to combat the problem in Connecticut.

The proposed measures include increasing the penalty on employers from \$300 per violation to \$300 a day per violation; strengthening criminal sanctions against misclassification, and joint investigations of misclassification complaints by various state agencies.

Attorney General Richard Blumenthal and acting Labor Commissioner Linda Agnew co-chair the commission. Other commission members include the Department of Revenue Services and the Workers' Compensation Commission. The commission is advised by a group that includes representatives of labor unions, industry associations and other business groups.

A crackdown on misclassification is overdue, says Blumenthal, because it causes harm to workers, taxpayers, and businesses. Calling workers independent contractors when they are really employees costs workers benefits, taxpayer's revenue, and other businesses a fair opportunity to compete for work.

Please see Item 3 and Attachment A of the CAR March 2010 Newsletter for Connecticut law on independent contractors and the ABC Test to determine if your independent contractor is really your employee!

**5.  
NEW ADA VIDEO  
DISPELS MYTHS**

*Ten Employment Myths: Information about the Americans with Disabilities Act (ADA)* is a new 17-minute video for employers from the U.S. Department of Justice. The video uses a question-and-answer format to explain the ADA in commonsense terms and refute misconceptions and fears that some employers may have about hiring people with disabilities. The new video and other ADA-related streaming videos are available for free at [www.ada.gov/videogallery.htm](http://www.ada.gov/videogallery.htm)

**6.  
DEALERSHIP  
EMPLOYEE JAILED  
FOR FOLLOWING  
ORDERS**

Dealerships that go out of trust, don't pay off trade-ins, and fail to forward sales taxes are an unfortunate occurrence during tough times, but usually it's only the dealership owner who pays the price.

Not so for the former controller of a Kia dealership in Montana who will spend 14 months in federal prison because she did not blow the whistle on her boss. The underlying scheme ultimately defrauded customers and lenders of hundreds of thousands of dollars, according to a report in *DealersEdge.com*.

**DEALERSHIP  
EMPLOYEE  
CONTINUED . . .**

The controller was convicted because she hid her knowledge of a crime, in this case mail fraud. She will have to pay back over \$665,000 to the bank and another \$175,000 to Hyundai Motor Finance.

The FBI found that, prior to the bankruptcy filing; the dealership had severe financial problems and couldn't pay off its floor plan loans or the loans on vehicles customers traded in. The dealership owner, the prosecution alleged, instructed store employees not to repay bank loans on some vehicles sold and instructed them to give the bank false information.

Employees were also instructed to tell customers that their loans on traded-in vehicles would be paid but they were not. The controller admitted that she followed orders, took steps to hide the crimes, lied to customers and kept quiet until confronted by federal law enforcement. Other than receiving her salary, she did not profit from the fraud.

**7.  
SUMMARY OF THE  
USED CAR  
WARRANTY ACT**

CAR has recently received an influx of calls regarding Connecticut's Used Car Warranty Act. Following is a summary of that Act for your review:

**APPLIES TO**

All used motor vehicles sold with a cash purchase price of three thousand dollars or more. **NOTE:** Cash purchase price includes all charges except finance charges, sales tax, title and registration.

**EXEMPTIONS**

- All used motor vehicles sold for less than three thousand dollars (\$3,000)
- All used motor vehicles sold between dealers
- All used motor vehicles seven years older than the current model year (as of January 1 of the current model year) **Note: In 2010, model years 2010-2004 are covered.**

**DURATION OF WARRANTY**

- 30 days or 1500 miles for used vehicles \$3,000 - \$5,000 (*whichever occurs first*)
- 60 days or 3000 miles for used vehicles \$5,000 or more (*whichever occurs first*)

**EXTENT OF WARRANTY**

Dealer warrants that the vehicle is "mechanically operational and sound" and covers the full cost of parts and labor during the express warranty period.

**What Is Covered?** The express warranty applies to the major components of the vehicle which render it operational (example: Engine, Transmission, Drive Axle, Brakes, steering, Suspension, Electrical – including power windows and seats.) Because the term "mechanically operational and sound" is not overly specific, certain repair claims will be judgment calls by the dealer.

**USED CAR  
WARRANTY ACT  
CONTINUED . . .**

**What Is Not Covered?** The express warranty does not apply to (1) defects which are merely cosmetic, (2) tires, (3) radios, tape and CD players, (4) glass defects which do not obstruct vision, (5) squeaks and rattles, (6) upholstery, and (7) defects or damage resulting from an automobile accident or from misuse of the vehicle by the consumer.

**WAIVER OF WARRANTY**

- A vehicle may be sold “as is” if its cash purchase price is less than \$3,000 or is older than seven years of age.
- A dealer may waive or limit a warranty to **any particular defect** provided it is in writing and signed by the dealer and consumer. Therefore a “mechanics special” can be sold, for example, with the warranty on the engine or transmission waived and the price reduced to reflect this.

**NOTE: Motorcycles are not covered under the Used Car Warranty act**

**PRE-SALE INSPECTION OF VECHICLE**

A dealer may not refuse a customer an independent inspection by a person of the customer’s choosing. The dealer may establish reasonable conditions regarding the place, time and extent of the inspection.

**DISCLOSURES REQUIRED ON PURCHASE ORDER AND INVOICE**

The terms of the express warranty must be included on the purchase order and invoice as well as the federal Buyer’s Guide. We suggest that you **not** pre-print your purchase orders but rather design stamps which say either:

1) “This motor vehicle is guaranteed for 30 days or 1,500 miles of operation, whichever occurs first. This guaranty covers the full cost of both parts and labor of those systems which render the vehicle mechanically operational.”

OR;

2) “This motor vehicle is guaranteed for 60 days or 3,000 miles of operation, whichever occurs first. This guaranty covers the full cost of both parts and labor of those systems which render the vehicle mechanically operational.”

OR;

3)

**“AS IS”**

**This motor vehicle is sold “AS IS”. This means that you will lose your implied warranties. You will have to pay for any repairs needed after the sale. If we have made any promises to you, the law says we must keep them, even if we sell “AS IS”. To protect yourself, ask us: 1. To put all promises in writing, and 2. If we offer a warranty on this vehicle.**

**NOTE:** The text of the disclaimer shall be printed in twelve-point boldface type, except the heading shall be in sixteen-point extra boldface type. The entire notice shall be boxed. The consumer shall indicate his assent to the disclaimer by signing his name within the box containing the disclaimer.

**8.  
WHEN MUST YOU  
FILE A "FIRST  
REPORT" OF  
WORKPLACE  
INJURY?**

Connecticut law (C.G.S. Sec. 31-316) requires employers to file a report with the Workers' Compensation Commission each time an employee has sustained a work-related injury or illness that results in one or more lost workdays. "It doesn't matter if the illness or injury is compensable" under workers' compensation, says Peter Miecznikowski, an associate research analyst in the commission chairman's office.

The form employers must use for this report is the "Employer's First Report of Occupational Injury or Illness," which must be submitted in duplicate within seven days of when the employer is notified of the injury. Among other things, you must report the date and time of the injury, any notice you have received from the employee of a workers' comp claim, the amount of accident and health insurance or life insurance your company provides for employees, and your company's payment or contribution requirements for any employee welfare plan.

If the employer fails to file the "First Report" as required, the Workers' Compensation Commissioner may increase the employee's compensation award.

The "Employer's First Report of Occupational Injury or Illness" form can be downloaded from the Commission's Web site at <http://wcc.state.ct.us/>. For hard copies of the form call the commission at 860-493-1500.

Employers usually know they're responsible for notifying the state Workers' Compensation Commission about injuries or illnesses that occur in the workplace. But they're sometimes unsure about the specifics - for example, must every injury or illness be reported? Find out the answers to this and all your Workers' Compensation questions by attending the CAR Spring Seminar:

***Workers' Compensation: Confused About the Complexities of Workers' Comp? You're Not Alone!***

**Presenters: John Novak, Security First Insurance Group  
Trevor Stage, KPA Safety Consultants**

Even seasoned HR veterans have a hard time interpreting grey areas, keeping up with changing regulatory issues and managing their compensation plans. In this information-packed seminar you'll discover a wealth of strategies, tips, tools, and more to help you manage your entire workers' compensation plan more effectively. What you learn here will help you understand workers' comp issues, control costs, eliminate wasteful spending, put a stop to fraudulent claims and save your organization money!

Seating is limited so we urge you to use the attached announcement (**ATTACHMENT A**) to register for this important seminar today!

**9.  
DMV CORNER**

For more years than we can remember, Debbie Wright has been the “voice” of the Dealer Processing Unit in Wethersfield. She has been the dealer’s “go to” person - always going the extra mile for the dealers and working to make their job just a bit easier.

Friday, April 23, 2010 is Debbie’s last day in the Dealer Processing Unit as she is transferring to a non-dealer department and we want to take this opportunity to thank her for her years of support to Connecticut’s dealer body.

We wish her much success in her new position!

**10.  
ENCLOSURES**

**Enclosure 1**

The CAR Association (CAR) in cooperation with the National Automobile Dealers Association (NADA) is seeking your opinions and input on issues that are affecting the auto retail business nationwide. NADA and CAR hope that the information we gather will help us to serve you and your business better.

Please take a few moments to fill out the enclosed survey and email or fax it back to the CARA office at your earliest convenience, and no later than Friday, April 30<sup>th</sup>. Please return to the Association office via fax (860) 527-2582 or email to [cara@ctcar.org](mailto:cara@ctcar.org)

**Enclosure 2**

In May of 2009 Governor Rell signed into law the enhanced Connecticut Franchise Act which allows dealers to receive retail rates from the manufacturers for their warranty parts and labor reimbursements.

Many dealers have taken advantage of this new law. We recently heard from a Nissan dealer who has begun receiving their significantly increased reimbursement and several GM dealers who have been awarded their new reimbursement rates, including one whose increase was 74%!! These dealers and others have asked us to urge all Connecticut dealers to take advantage of this new law.

We are interested in assisting all our members in receiving what is due them and what our Connecticut law now allows. In this effort, please take a moment and complete the confidential survey enclosed with this newsletter and return to the Association office via **fax (860) 527-2582** or email [akish@ctcar.org](mailto:akish@ctcar.org) at your very earliest opportunity.